



## **REGULAR MEETING OF THE MILPITAS CITY COUNCIL**

**TUESDAY, APRIL 18, 2017**

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**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA  
5:30 P.M. CLOSED SESSION • 7:00 P.M. PUBLIC BUSINESS**

Councilmember Barbadillo will participate by telephone  
conference from: Club Regina Puerto Vallarta  
Paseo De la Marina Sur 205  
Jalisco, Mexico  
(322) 226-6300

### **SUMMARY OF CONTENTS**

- I. CALL TO ORDER** by the Mayor and **ROLL CALL** by City Clerk (5:30 p.m.)
- II. ADJOURN TO CLOSED SESSION**
  - (a) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**  
Pursuant to Government Code Section 54956.9(d)(1)  
Means v. City of Milpitas, Santa Clara County Superior Court Case No. 16CV301785
  - (b) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**  
Pursuant to Government Code Section 54956.9(d)(4) – City as Plaintiff
  - (c) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**  
Pursuant to Government Code Section 54956.9(d)(1)  
City of Milpitas v. CalRecycle, San Francisco Superior Court Case No. CPF-16-514952
  - (d) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Pursuant to California Government Code Section 54957.  
Position: City Manager. Topic: goal setting
  - (e) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**  
Pursuant to California Government Code Section 54957.6  
City Negotiators: Tom Williams, Tina Murphy  
Employee Group: Milpitas Employees Association  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE** (7:00 p.m.)
- V. INVOCATION** (Councilmember Nuñez)
- VI. SCHEDULE OF MEETINGS – COUNCIL CALENDARS** - April and May 2017

## **VII. PRESENTATIONS**

- Commendation to Mr. Raghu Reddy upon election as Chair of Planning - American Telugu Association (request of Councilmember Phan)
- Recognition of the Police Officer, Firefighter and Citizen of the Year (request of Councilmember Nuñez)

## **VIII. PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not listed on this agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

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## **IX. ANNOUNCEMENTS**

## **X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

## **XI. APPROVAL OF AGENDA**

## **XII. CONSENT CALENDAR (Items with asterisks\*)**

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Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

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## **XIII. APPROVAL OF COUNCIL MEETING MINUTES – March 29 and April 4, 2017**

## **XIV. PUBLIC HEARING**

1. **Hold a Public Hearing and Adopt a Resolution Approving the 2017-2022 Capital Improvement Program (Staff Contacts: Nina Hawk, 408-586-2603 and Greg Chung, 408-586-3355)**

## **XV. UNFINISHED BUSINESS**

2. **Waive the First Reading and Introduce Ordinance No. 41.12 to Amend Section I-500-1.14 Authorizing an Increase in Compensation to Planning Commissioners from \$25 to \$100 Per Meeting (Staff Contacts: Chris Diaz, 408-586-3044 and Bradley Misner, 408-586-3273)**
- \* 3. **Approve Mid-Year Budget Appropriations Follow Up for the Fiscal Year 2016-17 Capital Improvement Program Budget (Staff Contact: Jane Corpus, 408-586-3125)**
4. **Consider Request From the Milpitas Chamber of Commerce to Sponsor the International BBQ and Festival Event Scheduled May 20 - 21, 2017 (Staff Contact: Michael Fossati, 408-586-3274)**
5. **Receive Update on Resolution in Support of the Vietnamese Heritage and Freedom Flag (Staff Contact: Christopher J. Diaz, 408-586-3040)**

## **XVI. REPORTS OF OFFICERS**

- \* 6. **Per Recommendation of Mayor Tran, Re-Appoint One City Commissioner to a New Term (Contact: Mayor Richard Tran, 408-586-3029)**

7. **Per Request of Vice Mayor Grilli, Consider Request For More Than 4 Hours of Staff Time to Study and Return with an Ordinance Related to Wage Theft (Contact: Vice Mayor Grilli, 408-586-3031)**

## **XVII. NEW BUSINESS**

8. **Receive a Presentation from Staff Regarding Affordable Housing (Staff Contact: Brad Misner, 408-586-3373)**
- \* 9. **Receive Report on Emergency Repair of Calaveras Road, Approve New Capital Improvement Project No. 4285 - Calaveras Road Repair, Approve a Budget Appropriation and Authorize Staff to Pay Invoices for Road Repair Work (Staff Contacts: Nina Hawk, 408-586-2603 and Greg Chung, 408-586-3355)**
- \*10. **Approve Staff Response to Request for Update to Reply to Recommendations to the 2011-2012 Santa Clara County Civil Grand Jury Report Regarding Pension Analysis (Staff Contact: Tina Murphy, 408-586-3086)**

## **XVIII. RESOLUTIONS**

- \*11. **Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approve a Reduction of Improvement Security for the Faithful Performance for the Cobblestone Subdivision at 375 Los Coches Street by Tri Pointe Homes, Inc. (Staff Contact: Judy Chu, 408-586-3325)**
- \*12. **Adopt a Resolution Granting Initial Acceptance of Public Improvements, Approve a Reduction of Improvement Security for the Faithful Performance, and Authorize City Manager to Modify as needed and then Execute a Maintenance Agreement for Public Improvements for the PACE Subdivision at 300, 324-368 Montague Expressway by Contour Trade Zone, LLC (Staff Contact: Judy Chu, 408-586-3325)**
- \*13. **Adopt a Resolution to Release Unclaimed Checks Per Standard Operating Procedure (Staff Contact: Chiu Tak Cheng, 408-586-3118)**
- \*14. **Adopt a Universal Resolution Designating the City Manager as the Authorized Agent to Execute for and on Behalf of the City of Milpitas for the Purpose of Obtaining Federal and State Financial Assistance (Staff Contact: Toni Charlop, 408-586-2801)**
- \*15. **Adopt a Resolution Approving the Site Development Permit for New 5,984 square foot Two-story Single Family Residence and Two Detached Structures on a Vacant Hillside Lot at 1639 Calera Creek Heights Drive (Staff Contact: Lillian Hua, 408-586-3073)**

## **XIX. AGREEMENT**

- \*16. **Approve Amendment No. 7 to the Consulting Services Agreement with Vali Cooper & Associates, Inc. Extending the Term to January 31, 2018 and Increasing Compensation in the Additional Amount of \$303,000 to Continue Support on Silicon Valley Rapid Transit Program Berryessa Extension (SVBX) Project and Montague Expressway Widening Project Capital Improvement Projects No. 4265 and No. 4179 (Staff Contact: Steve Chan, 408-586-3324)**

## **XX. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies**

## **XXI. ADJOURNMENT**

**NEXT SPECIAL CITY COUNCIL MEETING:**  
**WEDNESDAY, APRIL 26, 2017**

**NEXT REGULAR CITY COUNCIL MEETING:**  
**TUESDAY, MAY 4, 2017**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035. Phone 408-586-3040

*The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3<sup>rd</sup> floor 455 E. Calaveras Blvd., Milpitas and on the City website. 408-586-3000

All City Council agendas and related materials can be viewed online here:  
[www.ci.milpitas.ca.gov/government/council/agenda\\_minutes.asp](http://www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp) (select meeting date)

**APPLY TO SERVE ON A CITY COMMISSION**

Current Vacancies on:

Arts Commission  
Community Advisory Commission  
Economic Development Commission  
Emergency Preparedness Commission  
Parks, Recreation and Cultural Resources Commission  
Telecommunications Commission

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

*If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to [mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov) prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.*

## **AGENDA REPORTS**

### **XIV. PUBLIC HEARING**

- 1. Hold a Public Hearing and Adopt a Resolution Approving the 2017-2022 Capital Improvement Program (Staff Contacts: Nina Hawk, 408-586-2603 and Greg Chung, 408-586-3355)**

**Background:** Following the March 29, 2017 Capital Improvement Program Study Session with the City Council, staff updated the document and it is ready for approval by City Council Resolution. CIP projects are arranged into six main categories: Community Improvements, Parks, Streets, Water, Sewer, and Storm Drain. The document includes a summary by categories, and individual proposed project descriptions. Previously funded projects are also summarized. The value of capital projects proposed to be budgeted in fiscal year 2017-18 is \$59,633,540.

The Parks, Recreation and Cultural Resources Commission reviewed the Parks projects on March 6, 2017 and recommended those for approval by City Council. The City Council Finance Subcommittee reviewed the Draft 2017-2022 CIP on March 15, 2017. The Milpitas Planning Commission reviewed the Draft 2017-2022 CIP document on March 22, 2017 and found it in conformance with the General Plan. To hear additional comments from the public, a community meeting was conducted on Thursday, April 6, 2017, where staff presented the CIP document and was prepared to answer questions. No suggestions or requested changes from the audience were received.

**Fiscal Impact:** None.

**Recommendations:**

1. The Mayor shall open the public hearing, hear any public comments, and then, move to close the public hearing.
2. Adopt a resolution approving the 2017-2022 Capital Improvement Program (CIP) Report, as proposed.

**Attachments:**

- a) [Proposed Capital Improvement Program for FY 2017-2022](#)
- b) [Resolution](#)

### **XV. UNFINISHED BUSINESS**

- 2. Waive the First Reading and Introduce Ordinance No. 41.12 to Amend Section I-500-1.14 Authorizing an Increase in Compensation to Planning Commissioners from \$25 to \$100 Per Meeting (Staff Contacts: Chris Diaz, 408-586-3044 and Bradley Misner, 408-586-3273)**

**Background:** Pursuant to Milpitas Municipal Code I-500-1.14, Compensation for Attending Meetings, the City of Milpitas Planning Commission receives a compensation in the amount of \$25.00 for attending any regularly or specially scheduled Planning Commission meetings.

On April 25, 2016, the City Council voted to authorize an increase in compensation for each Commissioner attending Planning Commission meetings, from \$25 per meeting to \$100 per meeting. The Council meeting minutes are included in the agenda packet for reference. This Ordinance was brought forward to the Council on April 4, 2017 to effectuate this action in order to allow the increase in pay for service.

On April 4, 2017, the City Council requested the Chair of the Planning Commission come before the Council to address questions regarding the requested compensation. Staff contacted the Planning Commission Chairman and confirmed he will be present at the 4/18/17 City Council meeting for discussion.

**Fiscal Impact:** Budget appropriations were made for fiscal year 2016-17 and therefore there would not be a new fiscal impact associated with the Ordinance, following adoption.

**Recommendations:**

1. Following a reading of the title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 41.12 to amend Milpitas Municipal Code I-500-1.14 in order to increase the compensation for attending Planning Commission meetings from \$25.00 to \$100.00.
2. Introduce Ordinance No. 41.12.

**Attachments:**

- a) [Ordinance No. 41.12](#)
- b) [City Council meeting minutes April 25, 2016](#)

**\* 3. Approve Mid-Year Budget Appropriations Follow Up for the Fiscal Year 2016-17 Capital Improvement Program Budget (Staff Contact: Jane Corpus, 408-586-3125)**

**Background:** At the City Council meeting on April 4, 2017, staff brought the mid-year appropriations for approval and Council directed staff to bring three capital projects recommended for mid-year appropriations to the scheduled community meeting on April 6. The capital projects were discussed at the community meeting with no objections.

The requested budget appropriations are deemed necessary at mid-year for the following budget for capital projects:

**Capital Improvement Program (CIP) projects:**

1. **Create a CIP Project for the purchase of a MedEvac Emergency Rescue Vehicle and a corresponding storage structure. The cost of \$406,465 would be funded from the General Government CIP fund.** As occurs in all communities, in Milpitas first responders must be prepared to mitigate all potential threats to residents and critical infrastructures. The most serious threats may include natural disasters, violent crime, criminal mass casualty events such as active shootings, or other acts of terrorism. The majority of criminal offenders arrested in this community over the past few years do not have a Milpitas address. The current ease of transit through Milpitas via two major interstate highways, State Route 237 and Montague Expressway is certainly a contributing factor. And the ease and convenience of transit into Milpitas will be greatly enhanced when BART begins revenue service later this calendar year. To effectively plan and prepare, the City's exposure to crime must be viewed from a broad, regional perspective. The Milpitas Police Department maintains a highly trained Special Weapons and Tactics (SWAT) Team of fifteen (15) officers and sergeants to respond to high risk critical incidents. In addition to the previously mentioned threats, the SWAT Team is tasked with responding to all incidents requiring tactics and capabilities which exceed that of the average police officer on patrol, including hostage situations, barricaded armed suspects, serving high-risk search and arrest warrants, or any incident involving suspects known to be violent and armed.

The Police Department does not have a reliable vehicle to protect the team and endangered citizens from ballistic and projectile attacks and enable SWAT officers the ability to treat injured citizens and/or bring medically trained professionals into danger areas with reasonable safety. The MedEvac is a complete tactical vehicle/ambulance with hardened walls and blast proof windows that protect passengers from high caliber ballistic and projectile attacks, which allows the SWAT Team to deploy directly into "hot zones." The vehicle provides advanced life saving features, such as space for two emergency litters (rescue baskets), adjustable overhead lighting, medical supply storage, IV hookups, and two jumbo oxygen tanks that will allow the team to provide aid and transport the critically wounded. The vehicle also has four-wheel drive capability to allowing staff to work off road or maneuver through road debris that may exist during a natural disaster. The vehicle can fit up to 10 SWAT Team members or up to 20 civilians in need of rescue from violent incidents or natural disasters. In order to extend the useful life of the MedEvac Emergency Rescue Vehicle, it should be stored indoors. Due to its size, it could not be

stored in any existing facilities, so a dedicated storage structure is needed. The estimated cost of materials, labor, etc. for the storage structure is \$25,000.

2. **Create a CIP Project for the purchase of an Interactive Learning Objectives (MILO) Range Theatre 180 System. The cost of \$99,279 would be funded from the Equipment Replacement Fund (\$83,204) and the General Government CIP fund (\$16,075).** The Milpitas Police Department maintains a highly trained police force and is often confronted with split-second decision-making when dealing with highly stressful critical incidents. In 2001, the Milpitas Police Department purchased and installed the Range 2000, which is an interactive range simulation system as part of the Firearms Training Program. Due to age, the Range 2000 system is now antiquated and several of its key components are no longer functional. The MILO Range Theatre System is an upgraded interactive video training simulator, similar to the Range 2000, and comes equipped with hundreds of scenarios. It is a comprehensive solution that is designed to allow trainers the ability to give presentations, conduct interactive testing and assessment and provide immersive hands-on scenario based exercises with detailed debriefings. It also provides training in the application of the use of force and the escalation/de-escalation during crisis situations.
3. **Increase budget appropriation in the amount of \$200,000 for CIP No. 4273 Street Landscape Irrigation using one-time General Fund revenue from the sale of the McCandless property.** These funds will be used to purchase additional power equipment, vehicles and irrigation supplies necessary for Public Works staff to properly maintain and manicure the street landscaping medians and streetscapes. Due to the drought the City's landscape and irrigation systems need additional attention and restoration, this equipment will allow staff to most effectively and efficiently transport crews and equipment to the various locations to complete restoration of existing streetscape locations. As a result this appropriation will improve City streetscapes overall appearance, reduce irrigation leaks associated with disrepair irrigation systems and allow for more effective removal of nuisance weeds. Equipment and supplies purchases will include: two Ford F-250 Crew Cab with Utility box and lift gate, one Ford F-150 Regular Cab, one Big Tex 70SR dump trailer, dump trailer and various power tools. Staff requests these funds prior to next fiscal year to ensure ample attention prior to the start of summer season.

**Fiscal Impact:** The net impacts (use of funds) to the various requests noted above is as follows: Equipment Replacement Fund \$83,204; General Government CIP Fund \$422,540.

**Recommendation:** Approve the additional Fiscal Year 2016-17 mid-year budget appropriations as itemized in this report (and on Budget Change Form in agenda packet).

**Attachments:**

- a) [Table](#)
- b) [Budget Change Form](#)

4. **Consider Request From the Milpitas Chamber of Commerce to Sponsor the International BBQ and Festival Event Scheduled May 20 - 21, 2017 (Staff Contact: Michael Fossati, 408-586-3274)**

**Background:** The Milpitas Chamber of Commerce is proposing the 4<sup>th</sup> Annual International BBQ and Festival event. The Chamber requested the City to participate as a sponsor by waiving fees for City services for the event. The BBQ & Festival is scheduled for May 20 – 21, 2017 between the hours of 10:00 AM – 6:00 PM on Alder Drive between McCarthy Blvd. and E. Tasman Drive. The Chamber wrote a letter to the City requesting the following services (copy in agenda packet):

- Waive all permit fees
- Waive all business license fees for vendors
- Waive all inspection fees



- Approve temporary signs related to the event
- Post event on electronic billboard located adjacent to Interstate 880
- Post event on electronic billboard located on E. Calaveras Blvd. at City Hall
- Waive rental and labor/material fees for mobile stage
- Waive rental and labor/material fees for barricades and traffic calming equipment for street closures
- Provide professional security for the event
- Provide life safety service for the event
- Provide traffic calming plan for event

For each of these services, City Departments provided approximate costs that would normally be applicable to an applicant. A breakdown of those services is found in the list included in the agenda packet.

For the City's participation, the Chamber indicates the City would receive recognition through the use of the City's name and logo on promotional and marketing materials and two booth spaces available for the City's use. The Chamber will fund any additional expenses for the event not covered by the City. Furthermore, the Chamber will procure all beverages, entertainment, contestants, vendors, and miscellaneous necessities for the success and safety of the event not covered by the City.

At the City Council meeting on April 4, the Council requested that the Chamber of Commerce demonstrate the revenue from the 2016 International BBQ to determine if the request to waive fees is appropriate.

**Fiscal Impact:** \$21,480.48 in waived City services and \$8,214 in waived business license fees, totaling \$29,694.48. If approved by City Council, a portion of these costs will be charged to the City Council Unallocated Community Promotions budget line item.

**Recommendations:**

1. Approve the request from the Milpitas Chamber of Commerce for City services and authorization to use of the City's name and logo for promotional and marketing materials for the 2017 International BBQ and Festival on May 20 - 21, 2017.
2. Furthermore, direct the formation of an equal partnership between the City of Milpitas and the Chamber of Commerce for the planning of this event in future years and not scheduled to be in conflict with other events in neighboring communities.

**Attachments:**

- a) [Letter from Milpitas Chamber of Commerce – March 1, 2017](#)
- b) [Special Event application and layout of venue](#)
- c) [Itemized List of City Costs for International BBQ](#)

**5. Receive Update on Resolution in Support of the Vietnamese Heritage and Freedom Flag (Staff Contact: Christopher J. Diaz, 408-586-3040)**

**Background:** At various City Council meetings held in February and March of 2017, the City Council discussed the issue of adopting a resolution similar to a resolution adopted by the San Jose City Council. San Jose's resolution does fundamentally two things. First, it recognizes the Vietnam Heritage and Freedom Flag as the official flag of the City's Vietnamese-American community. Secondly, it expresses opposition to the flying of the Socialist Republic of Vietnam flag in the City of San Jose. Because the City of Milpitas has an existing Municipal Code provision allowing for private citizens to fly flags of other countries at certain City locations and the City of San Jose does not have the same provisions, the City Attorney's office was asked to research whether the Milpitas City Council can adopt a similar resolution.



Because the Milpitas Municipal Code allows for private citizens to fly flags of other countries at certain City locations, it has created a limited public forum at these respective locations. It is important to note that the City of San Jose has not created similar limited public forums, but instead, has kept its flag poles closed to speech activities, including the flying of flags of other countries.

In a limited public forum, the First Amendment would preclude the City of Milpitas from prohibiting the flying of flags based on the viewpoint the flag represents. As such, the City Council has the following options available:

- It can adopt a resolution similar to San Jose's resolution, but not identical. The resolution could recognize the Vietnam Heritage and Freedom Flag as the official flag of the City's Vietnamese-American community, and it could also prohibit the flying of the Socialist Republic of Vietnam flag, except at the locations covered by the City's existing flag policy. This will ensure the City does not violate the First Amendment by limiting the prohibition to areas that are non-public forums.
- It can direct staff to repeal the City's existing flag policy and turn the existing limited public forums at Higuera Adobe Park, and at ground level ceremony locations, into non-public forums. This would allow the City Council to adopt a resolution prohibiting the flying of the Socialist Republic of Vietnam flag in the entire City, including the locations covered by the City's existing flag policy. By turning the limited public forums into non-public forums, the City will have more leeway to prohibit speech at these locations. This is similar to the approach San Jose has taken with regard to its flagpoles in the City.
- It can adopt a resolution only recognizing the Vietnam Heritage and Freedom Flag as the official flag of the City's Vietnamese-American community, but not prohibiting the flying of the Socialist Republic of Vietnam flag. This would not raise any First Amendment issues as no viewpoint based prohibition on the flying of flags would occur.

**Fiscal Impact:** None, other than staff time to research the legal issues and prepare a resolution.

**Recommendation:** Receive a report from the City Attorney and direct the City Attorney based on the various options.

**Attachments:**

- a) [City Attorney's Memo on Flag Policy Prohibiting Flying of Certain Flags](#)
- b) [City flag policy/application and Municipal Code on Flag Display](#)

## **XVI. REPORTS OF OFFICERS**

- \* 6. **Per Recommendation of Mayor Tran, Re-Appoint One City Commissioner to a New Term (Contact: Mayor Richard Tran, 408-586-3029)**

**Recommendation:** Per recommendation of Mayor Rich Tran, move to re-appoint Ricardo Ablaza to a new 3-year term on the Economic Development Commission which will expire in April of 2020.

**Attachment:** None

7. **Per Request of Vice Mayor Grilli, Consider Approval For More Than 4 Hours of Staff Time to Study and Return with an Ordinance Related to Wage Theft (Contact: Vice Mayor Grilli, 408-586-3031)**

**Background:** At the April 4 City Council meeting, the Vice Mayor reported that she and Council-member Phan had met with the Wage Theft Coalition of Santa Clara County recently. They both wish to request that the Council consider adopting a wage theft ordinance for the City of Milpitas.

**Recommendation:** Authorize staff to spend more than four hours of time to study the issue of wage theft in Milpitas, and direct staff to return to City Council with a wage theft ordinance for adoption.

**Attachment:** None

## XVII. NEW BUSINESS

### 8. Receive a Presentation from Staff Regarding Affordable Housing (Staff Contact: Brad Misner, 408-586-3373)

**Introduction:** Demand for housing throughout the Silicon Valley continues to be at an all-time high. Coupled with the lack of housing supply, rising housing costs are creating an increasing need for affordable housing at all levels. Specific to the City of Milpitas, at its March 1, 2017 Special Meeting, the City Council indicated that affordable housing is a top priority. This report summarizes the City's past and present affordable housing activities and identifies potential options for Council's consideration to aid in the production and retention of affordable housing units.

**Background:** The City's Planning and Neighborhood Services Department, Housing Division, is responsible for oversight of the City's affordable housing program. The Housing Division's two main functions are: 1) management of the City's affordable housing program which includes affordable ownership and rental units; and 2) administration of the City's Community Development Block Grant (CDBG) Program. The City receives approximately \$400,000 per year from the CDBG program.

Affordable housing is generally considered housing that is affordable to, and reserved for, lower-income households for a period of time. Both the U.S. Department of Housing and Urban Development (HUD) and the State of California Department of Housing and Community (HCD) have the same income categories for "lower income" households. These "lower income" categories are generally defined as the following:

Moderate-Income: 81-120% Area Median Income  
Low-Income: 51-80% Area Median Income  
Very Low-Income: 31-50% Area Median Income  
Extremely Low-Income: 0-30% Area Median Income

For reference, the Area Median Income for Santa Clara County is \$107,100 for a family of four.

Below is HCD's income breakdown of all the income categories for Santa Clara County as adjusted by household size:

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Santa Clara County  4-person Area Median Income  \$107,100	Extremely Low	23450	26800	30150	33500	36200	38900	41550	44250
	Very Low	39100	44650	50250	55800	60300	64750	69200	73700
	Low Income	59400	67900	76400	84900	91650	98450	105250	112050
	Median Income	74950	85700	96400	107100	115650	124250	132800	141350
	Moderate Income	89950	102800	115650	128500	138800	149050	159350	169600

### **History of Affordable Housing in the City**

The City has been active in helping to create affordable housing units and has supported the creation of 270 affordable ownership units and almost 1000 affordable rental units since 1987. A complete inventory list is included as Attachment A. The City worked with developers in providing City financial assistance to help “buy down” the affordability of the units or in other cases provided direct financial assistance for the construction of an affordable housing project. The City has used a number of funding sources but it primarily depended on its Redevelopment Agency to provide affordable housing. Below is a brief description of some of the funding sources the City has used to provide affordable housing.

Redevelopment Agency - The single largest creator of affordable housing in the City was the City’s Redevelopment Agency (RDA). By law, 20% of all tax increment generated by the RDA was set aside and dedicated to affordable housing. From 1999-2014, over \$43 million was generated for affordable housing. The funding created 274 units of affordable ownership and almost 1,000 units of affordable rental units during that period. Some of these projects include Terrace Gardens (150-unit senior affordable rental) constructed in 1987, and DeVries Senior Housing (103-unit senior affordable rental). The other affordable ownership and rental units are interspersed with the market rate units in various developments through the City’s financial assistance by buying down the affordability. The term of affordability for the units are between 30-55 years. A list of all the affordable housing units funded by RDA included as Attachment B. However, with the statewide dissolution of redevelopment agencies in 2011, affordable housing production in the City and throughout the state has been greatly hampered. In fact, since the dissolution of the City’s RDA in 2011, no affordable units have been produced in the City.

Community Development Block Grant - Other sources of funding include the federal Community Development Block Grant (CDBG) program. This HUD program provides grants to grantees to fund qualifying activities. The City was identified as an Entitlement Grantee in 1997 and has been receiving CDBG funds directly from HUD since that time. Initially, the City was receiving approximately \$800,000 per year in CDBG funding. However, due to other federal funding priorities, the HUD budget has been slowly reduced over the years so that the City’s current level of funding is approximately \$400,000. These funds have been used for a variety of housing activities including rehabilitation of affordable housing and assisting low income homeowners stay in their homes through the City’s Housing Rehabilitation Program. Typically, the CDBG funding cycle begins each January when applications are received. The Community Advisory Commission (CAC) reviews the applications at its March meeting and makes its funding recommendations to the Council. The Council makes the final approval in April/May. The City’s funding recommendations are due to HUD by the end of May. However, with this year’s federal budget uncertainty, the final submittal to HUD is uncertain.

Housing Choice Vouchers – Also known as Section 8, housing choice vouchers are rental subsidies. The voucher is used to “fill the gap” between affordable rental rates and the market rate rental price of the unit. Vouchers are provided by HUD which provides either project-based vouchers or tenant-based vouchers. Project-based vouchers are provided for units of a specific development while a tenant-based voucher is used by individual households choose their own housing unit and then use their voucher to pay for their rent. There are a number of households with tenant based vouchers residing throughout the City.

### **City Affordable Housing Resources:**

While the loss of the RDA greatly impacted the City’s ability to assist with the production of affordable housing, other efforts are underway to replace the loss of RDA funding. Below is a list of City affordable housing sources and efforts:

Resolution No. 8481 - In June 2015, the City Council adopted Resolution No. 8481 which required any development of 5 units or more to provide 5% of the total units to be affordable to low or very low income qualified households. The developer would also have the option of providing an in-lieu fee equivalent to 5% of the total construction costs of the project.

Consolidated Plan Update/CDBG – The Consolidated Plan (Con Plan) is the City’s five year Strategic Plan for CDBG funding. The current Con Plan expires at the end of FY 2017. Since October 2016 staff has been working through the process of updating the Con Plan for the 2018-2022 period. During the update process, extensive public outreach was conducted. The public outreach included five community forums that were advertised in Spanish, Vietnamese and English, staff presentations of the Con Plan update to multiple commissions and community groups and prepared an online survey to receive community input. Public input has shown a clear interest in more affordable housing, public facilities, and services for seniors. Typically, the Con Plan is due to HUD in mid-May however, because of the federal budget uncertainty, that submittal requirement deadline is uncertain.

Affordable Housing Fund – As part of the negotiations during the dissolution process of the RDA, the City was able to retain approximately \$7 million in affordable housing funds. However, because they are former RDA funds, they have strict State requirements as to how the funds can be spent. For example, the funds must be spent by 2019 and the funds can only be used for households which earn less than the Moderate Income level.

Measure A funding – In November 2016, Santa Clara County voters passed Measure A, a \$950 million affordable housing bond. \$700 million is dedicated to the extremely-low income population, \$100 million for low income and the remaining \$150 million for moderate income households. The County is still in the process of preparing funding allocation requirements. County staff anticipate that they will present their funding strategy to the County Board of Supervisors in May. Staff will prepare an update for the Council as soon as the details of this Measure are fully known.

Housing Element – The City’s Housing Element was certified by the State in April 2015. One of the seven mandated elements of the General Plan, the Housing Element is the City’s guiding document for housing in the City. As part of the Housing Element, the state requires that the City plan for its fair share of regional growth. Known as the Regional Housing Needs Assessment (RHNA), this figure represents the number of housing units, by affordability level, that the City must plan for in its Housing Element. For this cycle (2014-2022), the City’s RHNA is some 3,290 units which are divided into four income categories.

Income Category	Projected Need	Percent of Total
VLI (0-50% AMI)	1004	30.5
Low (51-80% AMI)	570	17.3
Moderate (81-120% AMI)	565	17.2
Above Moderate (>120% AMI)	1151	35
TOTAL	3290	100

Note that the City does not need to construct these units but to provide adequate sites to accommodate the units.

The Housing Element also contains a number of housing related policies that support the following Housing Element Goals: Provide Adequate Sites, Maintain and Preserve Housing Resources, Facilitate New Housing Production, Support Housing Diversity and Affordability, Eliminate Housing Discrimination and Promote Energy Conservation.

State Density Bonus – State Density Bonus law grants a developer additional density in exchange for affordable units in the development. The law allows for a maximum 35% increase in density above the underlying zoning density for the site if the developer will provide a certain percentage of

affordable units. The units must be provided in the proposed development. The law also allows for “concessions” which provide some regulatory relief from the zoning requirements.

### **Potential Sites**

Below are some potential sites that could be used for affordable housing.

S. Main St. Properties – The City possesses two adjacent properties, located at 1432 and 1452 S. Main St. 1432 S. Main Street is owned by the City of Milpitas Housing Authority and 1452 S. Main Street is owned by the City of Milpitas. The combined acreage of the properties is approximately 2.7 acres. Currently there are businesses and one residential unit on the properties. However, the units are zoned multifamily residential. It is envisioned that the properties will be used for affordable housing development.

S. Main St. Senior Lifestyles – Located at 1600 S. Main St., the S. Main Senior Lifestyles project is a 388 unit senior living facility. In 2008, the project developer entered into a Developer and Disposition Agreement (DDA) for the Milpitas Housing Authority to transfer City owned property to the developer in exchange for the construction and reservation of 48 very low income units. The project was entitled in 2013 and Phase I of the project is currently undergoing building permit review.

### **Potential Future Options**

While there are several affordable housing resources in place, there are some potential future options the Council could consider:

Adoption of Affordable Housing Ordinance – An Affordable Housing Ordinance is a common tool for jurisdictions to produce affordable housing. Generally, the ordinance can require some provision for affordable housing as part of the development. The actual provision of affordable housing can come in many forms. Some methods used to require affordable housing include:

- Affordable Housing Impact Fee based on the development square footage
- Providing a certain percentage of affordable units in the development
- Donation of land for future affordable housing
- Partnering with a not for profit affordable housing developer

In regards to an Affordable Housing Impact Fee, in April 2015, the City along with other Santa Clara County and Alameda County jurisdictions, began participating in the preparation of a nexus study to establish an affordable housing impact fee. The study evaluates the nexus between new housing and commercial developments and affordable housing. New commercial and market rate housing developments create higher demand for dining, retail and other service industries. Generally, service related employment occupations tend to be lower wage earners thus creating a demand for affordable housing. The nexus study provides a financial analysis to determine what level of fee could be required to help meet that affordable housing demand. This fee could potentially replace the requirements set forth in Resolution No. 8481 which is presently set at 5% of total construction costs. The final draft has been completed and will be presented to the Council in 2017.

In the potential development of an Affordable Housing Ordinance, there are certain considerations which could be weighed including:

1. Level of Affordability – At what level income category
2. Mixed income or 100% affordable developments
3. Collection of the Impact Fee or providing the units in the development

Local Land Use Incentives – More robust than the density bonus provisions, the City could offer land use incentives that would encourage the production of affordable housing. For example, relaxation of height requirements or allowing greater residential uses in mixed used areas. It is to allow for greater development in exchange for affordable units.

**Analysis:** The information presented is the current state of the City's affordable housing program. The recommendations were made based on existing funding requirements, program guidelines and market forces.

**Fiscal Impact:** With the approval of Resolution No. 8481, projects initiated after June 2015 may be paying in-lieu fees although it is uncertain of the amount. If the Affordable Housing Impact fee is established, the City would be generating additional funds for affordable housing.

**Recommendation:** Receive presentation regarding affordable housing; and provide comment and feedback.

**Attachments:**

- a) [Inventory of Affordable Housing developments in the City](#)
- b) [Redevelopment Agency-funded developments from 1999-2014](#)

- \* 9. **Receive Report on Emergency Repair of Calaveras Road, Approve New Capital Improvement Project No. 4285 - Calaveras Road Repair, Approve a Budget Appropriation and Authorize Staff to Pay Invoices for Road Repair Work (Staff Contacts: Nina Hawk, 408-586-2603 and Greg Chung, 408-586-3355)**

**Background:** On February 27, 2017, staff became aware of a road shoulder failure of approximately 125 linear foot on Calaveras Road between Piedmont Road and Downing Road. The downslope edge of Calaveras Road has exhibited slope instability over the winter season, very recently due to heavy rainfall. For public safety, Calaveras Road is closed to vehicular traffic between Downing Road and Piedmont Road to allow assessment of the extent of roadway failure. Vehicular traffic is currently detoured to Downing Road and Old Calaveras Road. Subsequent roadway surveys and subsurface explorations showed continual slope movement and unstable soil underneath the roadway. A road repair is necessary prior to reopening Calaveras Road to vehicular traffic travel.

**Emergency Report and Update:** The Engineering Department, in collaboration with the Department of Public Works, is working expeditiously to advance all necessary engineering, geological investigative work and construction to properly and safely repair Calaveras Road.

Pursuant to state public contracting law and Council Resolution No. 7779, the Director of Public Works may authorize emergency work and let emergency contracts without giving solicitation competitive bids, but must provide the City Council with a report of all such work. On March 20, 2017, the Public Works Director entered into an agreement with Cal-Engineering and Geology to provide emergency geotechnical and civil engineering services for the amount of \$206,546 to provide geotechnical assessment and prepare Calaveras Road repair construction documents. Furthermore the Director of Public Works will need to enter into additional contracts, per authorities granted under Resolution No. 7779, to complete the emergency repair on Calaveras Road. Including the \$206,546 for Cal-Engineering and Geology, the total estimated cost of the Calaveras Road repair is \$1.2 million.

The emergency work and associated contracts are necessary to safeguard life, health and property. Once work is completed, Calaveras Road will be restored to a condition safe for use by the community. Additionally, the closure of Calaveras Road, due to the roadway failure and emergency work, has prompted increased traffic on both Old Calaveras Road and Downing Road, therefore emergency repair is further warranted to mitigate traffic impacts associated with the road closure.

Staff recommends that the City Council receive this report and authorize payment of invoices associated with the repair on Calaveras Road. Staff also recommends approval of a capital improvement project: Calaveras Road Repair, Project No. 4285, to make necessary roadway repair to reopen Calaveras Road and a budget appropriation of \$1.2 million from the Transit Occupancy Tax (TOT) into Project No. 4285. Construction repair of Calaveras Road is anticipated to be implemented

under an emergency contract beginning in mid-May, and Calaveras Road is expected to re-open in July or August of 2017.

**Fiscal Impact:** \$1.2 million from Transient Occupancy Tax into Project No. 4285 is requested to fund this unforeseen repair expenditure. There are ample funds available from transient occupancy tax to fund Project No. 4285.

**Recommendations:**

1. Receive this report on Emergency Repair of Calaveras Road.
2. Approve a new Capital Improvement Project titled Calaveras Road Repair - Project No. 4285.
3. Approve the budget appropriation of \$1.2 million from Transient Occupancy Tax into Project No. 4285 and authorize staff to pay invoices up to \$1.2 million for the project.

**Attachments:**

- a) [CIP Sheet for Project No. 4285](#)
- b) [Budget Change Form](#)

**\*10. Approve Staff Response to Request for Update to Reply to Recommendations to the 2011-2012 Santa Clara County Civil Grand Jury Report Regarding Pension Analysis (Staff Contact: Tina Murphy, 408-586-3086)**

**Background:** The 2011-2012 Santa Clara County Civil Grand Jury issued a report titled “An Analysis of Pension and Other Post Employment Benefits.” Section 933(c) of the California Penal Code requires the governing body of any agency or department which has been the subject of a Grand Jury report to respond to the Presiding Judge of the Superior Court on the findings and recommendations of the Grand Jury. The City formally responded to the Civil Grand Jury’s report on September 6, 2012.

On December 21, 2016, the 2016-2017 Santa Clara County Civil Grand Jury asked for the City of Milpitas to review the 2011-2012 Civil Grand Jury report and corresponding recommendations to provide 1) the City’s view of the recommendations, 2) whether the recommendations were accepted, and 3) the City’s plan for future action.

Included in the agenda packet for City Council review and approval is the City’s response to that request.

**Fiscal Impact:** None.

**Recommendation:** Approve staff’s written response to the 2016-2017 Santa Clara County Civil Grand Jury Request regarding Pension and Other Post Employment Benefits.

**Attachments:**

- a) [3 letters of request from 2016-2017 Civil Grand Jury](#)
- b) [2011-2012 Analysis of Pension & Other Post Employment Benefits](#)
- c) [Letter of Response by City of Milpitas 09-06-2012](#)
- d) [Letter of Response by City of Milpitas 04-18-2017](#)

## **XVIII. RESOLUTIONS**

**\*11. Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approve a Reduction of Improvement Security for the Faithful Performance for the Cobblestone Subdivision at 375 Los Coches Street by Tri Pointe Homes, Inc. (Staff Contact: Judy Chu, 408-586-3325)**

**Background:** On May 7, 2013, the City Council approved a development project with 28 single family detached residential units and four live-work units known as “the Cobblestone Subdivision”



located at 375 Los Coches Street at South Milpitas Boulevard by Tri Pointe Homes, Inc. (Developer). On March 18, 2014, the City Council approved the final map Tract No. 10221 and the Subdivision Improvement Agreement (SIA) for the project to ensure that the developer will complete all public improvements required by the project. The public improvements include but are not limited to: new street curb and gutter, sidewalk, driveway approaches, utility connections, street trees, street lights, landscaping and irrigation, and traffic signing and striping along the project frontage.

The developer provided improvement securities for the faithful performance in the total amount of \$250,000 for the final map. The developer has completed all public improvements in accordance with project conditions and approved improvement plan no. 2-1188. Pursuant to the SIA, upon final completion and initial acceptance of public improvements, the improvement security for the faithful performance shall be reduced to 10% of the security's original value for a one-year maintenance guarantee period of those public improvements. Therefore, the improvement security shall be reduced to \$25,000.00.

**California Environmental Quality Act:** On May 7, 2013, the City Council approved Environmental Impact Assessment No. EA12-0005 for the Cobblestone Subdivision. Granting initial acceptance of public improvements and approving reduction of improvement security for faithful performance are not considered projects under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

**Fiscal Impact:** None

**Recommendation:** Adopt a resolution granting initial acceptance of public improvements for the Cobblestone Subdivision at 375 Los Coches Street by Tri Pointe Homes, Inc. and approving a reduction of improvement security for the faithful performance.

**Attachment:** [Resolution – Cobblestone project](#)

- \*12. Adopt a Resolution Granting Initial Acceptance of Public Improvements, Approve a Reduction of Improvement Security for the Faithful Performance, and Authorize City Manager to Modify as needed and then Execute a Maintenance Agreement for Public Improvements for the PACE Subdivision at 300, 324-368 Montague Expressway by Contour Trade Zone, LLC (Staff Contact: Judy Chu, 408-586-3325)**

**Background:** On November 15, 2011, the City Council approved a 134-unit residential development project known as “the PACE Subdivision” located at 300, 324-368 Montague Expressway (at McCandless Drive and Trade Zone Boulevard) by Contour Trade Zone, LLC (Developer). On March 19, 2013, the City Council approved the final map Tract No. 10138 and the Subdivision Improvement Agreement (SIA) for the subject project to ensure that the developer will complete all public improvements required by the project. The public improvements include but are not limited to: new street curb and gutter, sidewalk, curb ramps driveway approaches, street lights, street trees, landscaping and irrigation along the project frontage, modification of median island, traffic signing and striping, traffic signal modification at Trade Zone Boulevard and Montague Expressway and at Trade Zone Boulevard and Ringwood Avenue, new utility connections, new recycled water main and a new public street Momentum Drive.

The developer has provided improvement securities for the faithful performance in the total amount of \$1,900,000 for the final map. The developer has completed all public improvements in accordance with project conditions and approved improvement plan no. 2-1161. Pursuant to the SIA, upon final completion and initial acceptance of public improvements, the improvement security for the faithful performance shall be reduced to 10% of the security's original value for a one-year maintenance guarantee period of those public improvements. Therefore, the improvement security shall be reduced to \$190,000.

As shown on the recorded Tract No. 10138, the developer dedicated Lot F to the City for public street and utility purpose, and City accepted the dedication as City Right-of-way subject to improvements. Lot F is located between the County of Santa Clara Montague Expressway (County Right-of-way) and the PACE Subdivision. Developer and the County of Santa Clara executed a Maintenance and Indemnification Agreement (MIA) filed for record in the Office of Recorder of the County of Santa Clara as document no. 22227319 on May 20, 2013, providing that the developer shall maintain public improvements located in the County Right-of-way. Lot F is contiguous to the County Right-of-way with public improvements, therefore, all public improvements located within Lot F shall be maintained by the developer. The Maintenance Agreement for Public Improvements (copy in agenda packet) requires the developer to maintain all public improvements in the City Right-of-way, which is consistent with the MIA.

**California Environmental Quality Act:** The PACE Subdivision is located within the Transit Area Specific Plan (TASP) area previously approved by the City Council that is consistent with the TASP Environmental Impact Report pursuant to CEQA Guideline 15168(c)(2). Granting initial acceptance of public improvements and approving reduction of improvement security for faithful performance are not considered projects under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

**Fiscal Impact:** None

**Recommendations:**

1. Adopt a resolution granting initial acceptance of public improvements for the PACE Subdivision at 300, 324-368 Montague Expressway by Contour Trade Zone, LLC and approving a reduction of improvement security for the faithful performance; and
2. Authorize the City Manager to execute a Maintenance Agreement for Public Improvements for this project.

**Attachment:**

- a) [Resolution – Pace Project](#)
- b) [Maintenance Agreement](#)

**\*13. Adopt a Resolution to Release Unclaimed Checks Per Standard Operating Procedure (Staff Contact: Chiu Tak Cheng, 408-586-3118)**

**Background:** According to City of Milpitas' Standard Operating Procedure No. 26-1, which conforms with California Government Code Section 50055, unclaimed checks of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by authorization of the City Council. A list of unclaimed checks and credits of less than \$15, which remain unclaimed for more than one year, is included as Exhibit A to the Resolution to Release Unclaimed Checks in the Council's agenda packet materials. The checks and credits listed are no older than March 2016, and this action brings the matter, including all credits, up to date through the current year. The sum total of the amount subject to write off is an extremely low percentage of the City's total accounts payable payments.

**Fiscal Impact:** The recommended action will increase General Fund revenues by \$930.80.

**Recommendation:** Adopt a Resolution to transfer a total of \$930.80 in unclaimed checks and credits, per the list generated by the City's Finance Department, to the General Fund in accordance with Standard Operating Procedure No. 26-1.

**Attachment:** [Resolution and Exhibit \(list\)](#)

**\*14. Adopt a Universal Resolution Designating the City Manager as the Authorized Agent to Execute for and on Behalf of the City of Milpitas for the Purpose of Obtaining Federal and State Financial Assistance (Staff Contact: Toni Charlop, 408-586-2801)**

**Background:** Milpitas Municipal Code, Title V, Chapter. 1, Section 4.01, designates the City Manager as the Director of Emergency Services. Section 4.02-6, further authorizes the City Manager to “represent the City in all dealings with public or private agencies on matters pertaining to emergencies as defined” in the ordinance. However, the CA Governor’s Office of Emergency Services (OES) requires that all public entities must adopt a “Designation of Applicant’s Agents Resolution for Non-State Agencies” (form 130) for the purposes of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act. It is recommended that the Universal Resolution be adopted and in effect for up to three years following date of approval.

**Fiscal Impact:** None.

**Recommendation:** Adopt a Universal Resolution designating the City Manager as the authorized agent to execute for, and on behalf of, the City of Milpitas for the purposes of obtaining federal and state financial assistance.

**Attachment:** [Universal Resolution \(per state OES\)](#)

**\*15. Adopt a Resolution Approving the Site Development Permit for New 5,984 Square Foot Two-story Single Family Residence and Two Detached Structures on a Vacant Hillside Lot at 1639 Calera Creek Heights Drive (Staff Contact: Lillian Hua, 408-586-3073)**

**Background:** The City received an application to construct a 5,984 square foot two-story single-family residence, a 1,176 square foot detached recreation center, an 869 square foot 3-car garage, an open trellis, and landscape amenities on a vacant lot in the hillside. The project site is an undeveloped 1.5 acre parcel located along Calera Creek Heights Drive within Planned Unit Development no. 32: Calera Creek Heights. The project site’s is zoned as R1-H in the Hillside Combining District and the General Plan designation is Hillside Low-Density.

The Planning Commission (“PC”) unanimously recommended approval of the Site Development Permit for the project on March 8, 2016. The PC determined the project is consistent with the policies and guiding principles identified in the General Plan, and satisfies the requirements specified in the Zoning Ordinance. The project’s architectural design and site planning is aesthetically compatible with the neighboring homes. The project meets the development standards set forth by the Zoning Code and Planned Unit Development no. 32, and will be designed to fit in with the natural topographic features of the property and will not be visible from the valley floor.

The Commission added a condition that the applicant be required to connect to a recycled water line for the purposes of irrigating their proposed landscaping, if the infrastructure was available. On November 15, 2016, the City Council approved Resolution No. 8605, which adopted Environmental Assessment No. EA16-0006, initial study/mitigated negative declaration for the implementation of the Milpitas recycling water pipeline extension project. However, there is no implementation timeline for the construction of the recycled water pipeline. When the recycled water pipeline is available, the condition will govern.

**Environmental:** A categorical exemption pursuant to Section 15303(a) of the CEQA Guidelines – New Construction or Conversion of Small Structures, has been applied to this project. Section 15303(a) includes, but limited to, one single-family residence, or a second dwelling unit in a residential zone. The project’s proposed new construction of a single-family residence and its accessory structures are within a residentially zoned area on a legal parcel.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution approving Site Development Permit No. SD16-0005 to construct a new hillside home on a vacant 1.5 acre site located at 1639 Calera Creek Heights Drive.

**Attachments:**

- a) [City Council Resolution](#)
- b) [Planning Commission Meeting Minutes 3/08/2017](#)
- c) [Planning Commission Staff Report 3/08/2017](#)
- d) [Project Plans](#)
- e) [Story Pole Photographs](#)
- f) [Grading Requirements in Hillside Zones](#)

**XIX. AGREEMENT**

- \*16. Approve Amendment No. 7 to the Consulting Services Agreement with Vali Cooper & Associates, Inc. Extending the Term to January 31, 2018 and Increasing Compensation in the Additional Amount of \$303,000 to Continue Support on Silicon Valley Rapid Transit Program Berryessa Extension (SVBX) Project and Montague Expressway Widening Project Capital Improvement Projects No. 4265 and No. 4179 (Staff Contact: Steve Chan, 408-586-3324)**

**Background:** On August 3, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for reimbursement of City work on the Silicon Valley Berryessa Extension (SVBX) project (BART). The Master Agreement allows reimbursement of City consultant costs for support services.

On November 20, 2013, the City entered into a consulting services agreement with Vali Cooper & Associates, Inc. in the amount of \$19,760 to provide support services for the SVBX project through June 30, 2014. On January 21, 2014, the parties entered into Amendment No. 1 to increase the compensation by \$75,000 to continue the support services. On June 3, 2014, the parties entered into Amendment No. 2 to increase the compensation by \$158,240 and extended the term. On December 16, 2014, the parties entered into Amendment No. 3 to increase the compensation by \$300,000 and extend the term through September 30, 2015. On September 15, 2015, the parties entered into Amendment No. 4 to increase the compensation by \$310,000 and extend the term through October 31, 2016. On September 20, 2016, the parties entered into Amendment No. 5 to increase the compensation by \$230,000 and extend the term through February 28, 2017. On February 1, 2017, the parties entered into Amendment No. 6 to extend the term through August 30, 2017.

Several phases of the SVBX work are in progress simultaneously, including relocation of existing utilities, installation of new utilities, track installation, parking garage, roadway, frontage, and station construction. The Montague Expressway Widening Project is scheduled to begin shortly and will also require engineering support services. Staff recommends Amendment No. 7 with Vali Cooper & Associates to perform additional services by continuing their support with the SVBX project through the end of April 30, 2018. Staff has negotiated a fee for these services not to exceed \$303,000. Approval of this agreement amendment brings the total agreement amount with Vali Cooper to \$1,396,000.

**Fiscal Impact:** None. Consultant expenses and City staff labor are reimbursable under the VTA Master Agreement for CIP No. 4265. Work performed on the Montague Expressway Widening Project is charged to CIP No. 4179. Sufficient funds are available in the project budgets for these services.

**Recommendation:** Approve Amendment No. 7 to the agreement with Vali Cooper & Associates extending the term to January 31, 2018 in the additional amount of \$303,000 for the Silicon Valley Berryessa (BART) Extension Project No. 4265 and Montague Expressway Widening Project No. 4179.

**Attachment:** [Amendment No. 7 to Agreement with Vali Cooper & Associates, Inc.](#)

- XX.       REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies**
- XXI.      ADJOURNMENT**

**NEXT SPECIAL CITY COUNCIL MEETING:**  
**WEDNESDAY, APRIL 26, 2017**

**NEXT REGULAR CITY COUNCIL MEETING:**  
**TUESDAY, MAY 4, 2017**